

**Board of Cosmetologist Examiners
May 14th, 2012 Board Meeting
10:30AM, Conference Room A
University Park Plaza
2829 University Ave. SE
Minneapolis, MN 55414**

Present at meeting:

Kurt Deile, Chair
Mary Finnegan, Member
Robert Salmonson, Member
Laurie Boggess, Member
Gina Stauss Fast, Executive Director

Michele Owen, Attorney
Billi Jo Rygg, Licensing Division Manager
Rebecca Gaspard, Compliance Division Manager
Diane DeLaBarre, Assistant Executive Director
Maggie Shea, Assistant to the Executive Director

I. *Call to Order*

KD called the meeting to order at 10:37 AM.

II. *Approval of Proposed Agenda*

LB made a motion to approve the proposed agenda amended with flexibility to hear waivers with petitioners present before moving on to other items.

MF seconded. 4 Ayes. 0 Nays. **Motion Carried.**

III. *Approval of Minutes*

LB Agenda item D, 'mad' should be changed to 'made.'

LB made a motion to approve the amended minutes from the February 27, 2012 meeting.

MF seconded. 4 Ayes. 0 Nays. **Motion Carried.**

IV. *New Business*

C. Aubrey Michelle Crofton (present)

GSF Aubrey is requesting waiver to the processes in which the licensing staff accepts reciprocity applications as her application was denied due to insufficient hours documented on the certifications of skills from other states. Her school transcripts show that she attended 1,560 hours, whereas the certification of skills shows 1,500 hours.

MF Only concern is that there is a different breakdown of hours than what is required in Minnesota.

AMC Elective hours went toward general education requirements.

LB Made a motion to grant the waiver based on hardship.

BS Seconded. 4 Ayes. 0 Nays. **Motion Carried.**

Discussion: If a licensing committee is established, this would be an example of a procedure they could look into. For now, the board would like to review each similar case individually.

D. Chalisa Everson (present)

GSF Chalisa is requesting a waiver to Rule 2105.0130 because her tests results have expired. The BCE originally received her application on October 19, 2011, and reviewed it on November 7, 2011 when it was determined her application was incomplete. Chalisa's test results expired on November 13, 2011. There are attachments to the board packet documenting her financial hardship.

CE Incomplete application was due to sending in a copy of her graduation certificate rather than the original.

LB made a motion to grant the waiver based on financial hardship.

BS seconded. 4 Ayes. 0 Nays. **Motion Carried.**

E. Martha Himlie (present)

GSF Martha is requesting a waiver to Rule 2105.0160 because she would like to be relicensed as a salon manager. She left the cosmetology industry 11 years ago to pursue a career in massage therapy, and therefor does not have 2,700 hours of work experience in the last 3 years as required by the rule. Due to medical reasons she is no longer able to work as a masseuse.

LB and MF expressed concern that this would set a precedent of waiving the 2,700 hour requirement.

GSF Martha has had over twenty years of experience as a salon owner, and has been out of the business for 11 years, so that would be something to consider when looking at future cases.

MH Ms. Himlie lives in a town of 5,000 people, and there are not a lot of jobs available. She has been offered a job working in a salon as an independent contractor, which would require a manager's license. The owner has offered to hire her as an operator for 6 months, but due to concerns over costs health insurance, social security, etc, she will not hire her for a longer period.

MF the medical issue has prevented her from working in massage therapy, but did not prevent her from working in cosmetology.

MO The waiver does not have to be for medical necessity; it could also be due to hardship.

MH Ms. Himlie would like the waiver for financial hardship: her husband passed away in 2006 and she is looking to supplement her social security income.

BS made a motion to grant the waiver due to financial hardship provided that she pass the manager's test and apply for a license within three months.

LB Seconded. 4 Ayes. 0 Nays. **Motion Carried.**

F. Wendy Adelle Lane (present)

GSF Wendy is requesting a waiver to Rule 2105.0210 requiring a refresher course to renew a manager's license. She suffered a stroke in 2005 and has been unable to work.

MF made a motion to waive the 155 hour refresher course provided that she pass the manager's test and skills test.

BS seconded.

No vote was taken on the motion.

WL Ms. Lane only has use of one hand, and would not be able to pass a skills test. Her intention is to use her manager's license to manage her salon, not to perform services.

MF made a motion to grant the waiver for the 155 hour course and examinations in order to gain an active cosmetology salon manager license provided she does not use her cosmetology salon manager license to perform BCE regulated services based on medical necessity.

BS seconded. 4 Ayes. 0 Nays. **Motion Carried.**

RECESS

KD recessed the meeting at 11:55 AM

KD reconvened the meeting at 12:02 PM

G. Claire Lichy (present)

GSF Claire is requesting a waiver of Rule 2105.0160 because she has been unable to accumulate 2,700 hours of work experience over the past three years in order to gain her manager's license due to medical issues. There are two Doctors' notes in the board packet.

CL Ms. Lichy had two surgeries that went poorly and have led to chronic back problems. Her doctor advised her not to work more than 15 hours per week. She would like to open a home salon to allow for a more flexible schedule and to be able to stretch out between clients. The break room at her current salon is too crowded to do so.

MF made a motion to grant a waiver to the 2,700 hour requirement to gain a manager's license provided that she pass the manager's exam and apply for her license within 3 months based on medical necessity.

LB seconded. 4 Ayes. 0 Nays. **Motion Carried.**

H. Kimberly Schroeder (present)

GSF Ms. Schroeder is requesting a waiver to Rule 2105.0210 in order to gain her underlying operator's license. She is an instructor and this is a similar waiver to those the Board has granted in the past.

LB made a motion to grant the waiver based on hardship to gain her cosmetologist operator's license.

BS seconded. 4 Ayes. 0 Nays. **Motion Carried.**

J. Le Soum Ward (present)

GSF Ms. Ward is requesting a waiver to rule 2105.0130 because she would like to have an English reader for her exams. She does not meet the ADA requirements to

have an English reader, and Pearson Vue would need permission from the Board in order to proceed. The option is available to Ms. Ward to have a state approved interpreter in her native language. If that is available, the Board would not need to take action because it would comply with current rules.

Al Ward (Ms. Ward's husband) They were not aware of that option. They have used translators in the past at the doctor's office, and that would be an acceptable solution if it is available.

GSF Gina will be in contact with Pearson Vue to determine if an interpreter is available via a state approved vendor in Ms. Ward's native language of Khmer. Ms. Ward would be responsible for the cost of the interpreter.

No action taken.

K. Park Avenue School of Cosmetology, Inc. (present)

GSF The Park Avenue school is requesting a variance to Rule 2110.0400 because the rooms they would like to use for esthetician training do not currently have sinks. The Licensing Division Manager inspected the school and saw that rooms are on an interior wall of the building which would make it difficult to add plumbing.

KD The board has previously denied requests for a variance of this rule; it would be difficult to approve this request without a significant difference.

GSF Differences to the European Wax variance request include: They wanted the variance in order to meet the franchise standard, which is to not have sinks in waxing rooms; they wanted their variance to apply to multiple facilities they were planning to open throughout the state in the future; and their facility had not yet been constructed.

KD The Park Avenue School could have come before the board, like European Wax did, before they wanted to open.

KW We followed the rules and laws, and in my reading of them it is not clear that there needs to be sinks in each room. Because of the licensing process, we could not submit a floor plan until we applied for our license. We could not apply for our license until we were ready to open, when the city signed off. It was when the licensing inspectors came to our facility that we were informed we needed sinks in each room. Because we had students waiting to attend, we blocked off the three esthetician rooms so we could obtain our license and begin operating.

MF The laws and rule books don't explicitly state that there needs to be sinks in every room. That is something we decided was our interpretation of the Rule. Someone reading the laws and rule books wouldn't necessarily know that.

MO The meeting where the interpretation of the rule was decided is part of the public record and available for anyone to look up.

KD Having a portable sink would satisfy the rule, is that something you are willing to consider?

KW The rooms are 8'x8' so there is not a lot of extra room. I would need to check with the city of Brainerd to see if that would be acceptable.

MO The board needs to decide if the petition meets the three requirements outlined in Statute 14.055 subdivision 4, which are:

- (1) application of the rule to the petitioner would result in hardship or injustice;
- (2) variance from the rule would be consistent with the public interest; and
- (3) variance from the rule would not prejudice the substantial legal or economic rights of any person or entity.

The board also has the option of tabling request to a future meeting. The Petitioner would have to agree to this as the board must act on the request within 60 days.

KW I am willing to have my request tabled until the July 16th meeting.

GSF Additional information to submit before the July meeting should include:

plumber work orders to show the board the cost of adding sinks; information from the City of Brainerd; portable sink information; standard of education for estheticians in private rooms in terms of public safety; BCE staff or Executive Director will be available to answer questions.

LB made a motion to table the Park Avenue School variance to the July meeting based on the petitioner's agreement to the extension of time.

MF second. 4 Ayes. 0 Nays. **Motion Carried.**

B. Brittany Baron (not present)

GSF Brittany is requesting a waiver to Rule 2105.0150 because it has been more than three years since she graduated from school and would like to apply for a license. She was unable to pass her test due to medical reasons. A doctor's note has been included in the board packet.

BS made a motion to grant the waiver based on medical need, she must become licensed within one year.

LB seconded. 4 Ayes. 0 Nays. **Motion Carried.**

I. Holly Steinbach (not present)

GSF Holly is requesting a waiver to rule 2105.0150 because it has been more than three years since she graduated from school and would like to apply for a license. Her husband was in the military and they moved often.

BS made a motion to grant the waiver based on hardship, she must become licensed within one year.

MF seconded. 4 Ayes. 0 Nays. **Motion Carried.**

V. *Old Business*

A. Esthetician Task Force Recommendations

GSF presented a summary of the Esthetician Task Force findings. MO and GSF will meet to determine what actions the board can take based on these findings. Administrative staff will create a consumer protection and awareness pamphlet to upload on the BCE website.

VI. Administrative Reports

Administrative Division Report – GSF presented

Compliance Division Report – RG presented

Licensing Division Report – BJR presented

VII. Adjournment

The meeting adjourned at 2:43 PM